

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

DAVID W. HERBAGE, ET AL

Filed: **January 23, 2004**

Serial No. **10/763,789**

For: **Stacked Pellet Flare Assembly and
Methods of Making and Using
the Same**

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Confirmation No.: **7920**

Art Unit: **3641**

Examiner: **Lee, Benjamin P.**

Attorney Docket No.: **A310429.2US**

ELECTION UNDER 35 U.S.C. 121
AMENDMENT

Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Washington, D.C. 22313-1450

Dear Sir:

Applicants acknowledge receipt of the Office Action issued in the above identified application on August 22, 2007. Applicant appreciates the thorough review of the subject of the invention and the assessment of the relationship of the claims.

A Petition for Extension of Time of four additional months is herewith submitted to extend the time to respond to the Office Action dated August 22, 2007.

Election/Restrictions

The Examiner has required Restriction between the patentably distinct inventions as expressed in the claims. The Examiner has characterized the various species of the claimed invention are grouped as follows;

- I. Claims 1 – 19, drawn to flare pellet assembly including first and second flare pellets in a stack classified in class 102, subclass 352; and
- II. Claims 20 - 25, drawn to a method for assembling stack of first and second flare pellets disposed in a casing classified in class 102, subclass 343; and

III. Claims 26 – 29 drawn to non-granular flare pellet having a ratio of surface area to mass of at least 0.70 classified in class 149, subclass 110; and

IV. Claims 30 – 33 drawn to method for using flare pellet assembly comprising magnesium and sodium nitrate classified in class 102, subclass 336; and

V. Claims 34 – 37 drawn to method of using flare pellet assembly comprising magnesium, polytetrafluoroethylene and a fluoroelastomer with a first infrared output classified in class 102, subclass 283; and

VI. Claims 38 – 39 drawn to method of using flare assembly with a first and second infrared output classified in class 102, subclass 352; and

VII. Claims 40 – 42 drawn to method of using flare assembly with a first infrared output of at least 6000 w/ster in a mid infrared band between about 3.0 μ and about 5.5 μ for 2 seconds classified in class 102, subclass 292.

The Examiner has required election of the invention in one of the seven groups of claims. Applicants confirm election to prosecute the claims of Group I, namely claims 1 through 19. Accordingly, Claims 20 through 42 are withdrawn.